

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

Bail Appl..No. 4980 of 2007()

CRIME NO. NOT KNOWN, THE C.I, CRIME BRANCH, PALARIVATTOM

: PETITIONERS

1. CHACKO.V.J., AGED 72 YEARS,
S/O. JOSEPH, VETTIKKANAL HOUSE, UZHAVOOR P.O.,
KOTTAYAM DISTRICT.
2. SHIMMY.V.C, AGED 33 YEARS, S/O. CHACKO,
VETTIKKANAL HOUSE, UZHAVOOR P.O.,
KOTTAYAM DISTRICT.
3. JOHNSON.V.C. AGED 23 YEARS,S/O. CHACKO,
VETTIKKANAL HOUSE, UZHAVOOR PO, KOTTAYAM DISTRICT.

BY ADV. SMT.DAISY A.PHILIPOSE

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 14/08/2007 ALONG WITH B.A.NO.5000 OF 2007, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.Nos.4980 & 5000 of 2007

Dated this the 14th day of August, 2007

ORDER

Applications for anticipatory bail. The petitioners apprehend arrest in a crime, which is now being investigated by the detective Inspector, CBCID S.I.G II, Ernakulam. The crux of the allegations in the said crime is that the property belonging to the defacto complainant measuring about 80 acres of land has been disposed of by several assignment deeds - all allegedly executed by a person by name Jayakumar, who claims to be the power of attorney holder of the original owner. The original owner disclaims having appointed any such attorney. There is a registered power of attorney. Attempts made to trace the said attorney conveys that at present there is no such person at all. The petitioners are persons who claim on the strength of the document executed by the said power of attorney. They have not been arrayed as accused so far. Investigation is in progress. In as much as there is no such person who assigned the property as the attorney of the defacto complainant, the police do want to interrogate the transferees closely to ascertain the details of such attorney if any and whether there has been any collusive attempt by any of the petitioners along with some other to commit the crime.

The petitioners submit that they are bona fide purchasers and that at any rate, they do not deserve to endure the trauma of undeserved arrest and detention. They are willing to co-operate with the investigators. But appropriate directions may be issued under Section 438 Cr.P.C to save them from unnecessary arrest and detention. This in short is the prayer of the petitioners.

2. The learned Public Prosecutor opposes the application. The petitioners have unnecessarily rushed to this Court. As a matter of fact, the investigator only wants to ascertain the identity of the alleged attorney if there be any such person. Interrogation of the petitioners who claim under the said attorney is certainly necessary to ascertain the vital details in relation to the case. The learned Public Prosecutor submits that there are some indications to show that one of the petitioners ie. the 2nd petitioner in B.A.No.5000/07 is one who had collected money from others in whose favour the said attorney executed the document. The learned Public Prosecutor submits that the interests of a fair and efficient investigation will be hampered if such assignees were permitted to arm themselves with orders of anticipatory bail at this stage. They have to be interrogated closely to ascertain the truth in this case and resolve the mystery of the crime. Anticipatory bail may not be granted to the petitioner in these circumstances, prays the learned Public Prosecutor .

3. Having considered all the relevant inputs, notwithstanding the fact that the petitioners have not so far been arrayed as accused, I find merit in the opposition by the learned Public Prosecutor . This certainly is a fit case where the petitioners must co-operate with the investigators and make themselves available for interrogation. I have no reason to assume that interrogation to be conducted by the investigator will not be in accordance with law or that the investigators would commit any illegality in the conduct of the investigation. In a case like this, in the interests of ascertaining the truth, I am satisfied that the petitioners need not be permitted to arm themselves with an order of anticipatory bail when they face interrogation by the police.

4. These applications for anticipatory bail are, in these circumstances, dismissed.

(R.BASANT, JUDGE)

rtr/-